

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

Examiner Interview

At the outset, Applicant wishes to extend their appreciation for the courtesies extended to Applicant's representative during the June 16, 2009 interview. A summary of the discussion and agreements reached during the interview are incorporated into the following remarks.

Summary of Office Action

In the Office Action, beginning at page 2, Claims 1 and 3-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable by U.S. Patent No. 5,010,847 to Braden (Braden '847) in view of U.S. Patent No. 3,529,575 to Schalk (Schalk '575) and U.S. Patent No. 5,427,058 to Chung (Chung '058).

Summary of Response to Office Action

In Response to the March 9, 2009 Office Action, Applicant hereby amends claims 1, 4, 10, and 20 and adds new claims 21 and 22. Accordingly, claims 1 and 3-22 are currently pending, claim 2 being canceled without prejudice or disclaimer, and claims 1, 4, 21, and 22 being the only pending independent claims.

35 U.S.C. § 103(a)

In the Office Action, beginning at page 2, claims 1 and 3-20 were rejected under 35 U.S.C. § 103(a) as reciting subject matter that is allegedly obvious by U.S. Patent No. 5,010,847 to Braden (Braden '847) in view of U.S. Patent No. 3,529,575 to Schalk (Schalk '575) and U.S. Patent No. 5,427,058 to Chung (Chung '058). This rejection is respectfully traversed, and Applicant requests reconsideration for at least the following reasons.

As discussed during the personal interview, none of Braden '847, Schalk '575, and/or Chung '058 either alone or in combination disclose or teach at least the feature of the nipple including a first concave portion having a first larger diameter and a concave tip portion having a smaller diameter forming a reservoir, as recited in claims 1 and 4.

Because none of Braden '847, Schalk '575, and/or Chung '058, either alone or in combination, teach the above-referenced feature, as well as other features, of Applicant's independent claims 1 and 4, it is respectfully submitted that there is no *prime facie* case for obviousness.

The Office bears the initial burden of establishing a *prima facie* case of obviousness. M.P.E.P. § 2142. If the Office fails to set forth a *prima facie* case of obviousness, Applicant is under "no obligation to submit evidence of nonobviousness," such as unexpected results or commercial success. *Id.* In other words, if the Office fails to meet the initial burden of establishing a *prima facie* case of obviousness as to a given claim, then that claim is not obvious without any specific evidence of nonobviousness by Applicant.

In order to establish a *prima facie* case of obviousness, the Office must satisfy three requirements. M.P.E.P. § 2142. First, "the prior art reference, or references when combined, must teach or suggest *all* the claim limitations." *Id.* (emphasis added). Second, the Office must show that there is "some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." *Id.* Finally, "there must be a reasonable expectation of success." *Id.*

In the present case, as stated above, none of the cited references either alone or in combination teaches or suggests at least the feature of the nipple including a first concave portion having a first larger diameter and a concave tip portion having a smaller diameter forming a reservoir, as recited in claims 1 and 4. Thus, the Office Action fails to establish a *prima facie* case of obviousness as to claims 1 and 4, and claims 1 and 4 should be considered to define over the art of record as agreed upon during the personal interview.

The Office Action fails to meet all three requirements for establishing a *prima facie* case of obviousness. Therefore, Applicant respectfully requests that the rejection of claims 1 and 4 under 35 U.S.C. § 103(a) be withdrawn.

Further, since claims 3, 9, 10-13, and 15-19 depend from and respectively incorporate all the features of claim 1, and claims 5-8, 14, and 20 depend from and include the features of claim 4, claims 3 and 5-20 are also not obvious over the applied art for at least for the above reasons for which their respective independent base claim is not obvious, and for the separate features that each of these claims recites. Thus, Applicant respectfully requests that the rejection of claims 1 and 3-20 under 35 U.S.C. § 103(a) be withdrawn.

New Claims

New claims 21 and 22 are added to provide an alternate scope of protection for the invention. It is respectfully submitted that these new claims are also in immediate form for allowance, as agreed upon during the personal interview. Early and favorable examination of all claims is respectfully requested.

Conclusion

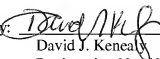
Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of this patent application is therefore respectfully solicited.

If the patent examiner believes that a telephone conference with the undersigned would expedite passage of this patent application to issue, they are invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. If, however, additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account listed on Applicant's initial application filing transmittal document.

Respectfully submitted,

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